

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:
Champagne Room Bk Inc.

Debtor

Case No. 1-23-43187-ess
Chapter 7

**NOTICE OF TRUSTEE'S MOTION;
(A) REQUESTING THE SANCTION OF THE DEBTOR'S ATTORNEY, VICTOR M. FERARU;
AND (B) TO COMPEL THE RETURN TO DEBTOR BY ATTORNEY FOR DEBTOR
OF LEGAL FEES COLLECTED**

PLEASE TAKE NOTICE, that on January 9, 2024 at 10:30 AM or as soon thereafter as counsel may be heard, a hearing (the "Hearing") will be held before the Honorable Elizabeth S. Stong, United States Bankruptcy Judge, at the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York, 11201 (the "Court"), upon the motion (the "Motion") of David J. Doyaga, Sr., the Chapter 7 Trustee (the "Trustee") of the Estate of the above captioned debtor (the "Debtor"), for the entry of an Order (A) requesting the sanctions of the Debtor's attorney, Victor M. Feraru; and (B) to compel the return to Debtor by attorney for Debtor of legal fees collected in preparation of Debtor's bankruptcy petition and schedules.

PLEASE TAKE FURTHER NOTICE, that objections to the relief requested in the Motion, if any, must be in writing, conform with the Bankruptcy Code and Rules, state with particularity the grounds therefore, and be filed with the Court, with a courtesy copy to the Chambers of the Honorable Elizabeth S. Stong, and served so as to be received by the Trustee, at the address listed below no later than seven days preceding the original return date.

PLEASE TAKE FURTHER NOTICE, that the Hearing may be adjourned from time to time without further notice other than the announcement of such adjournment in open Court.

PLEASE TAKE FURTHER NOTICE, that the complete copy of this application including the Stipulation and Exhibits is being served on (a) the Office of the United States Trustee, (b) Debtor and (c) Victor M. Feraru and is on file with the United States Bankruptcy Court at the same address written above and may be examined at the Clerk's office during its business hours. Only the Notice of Motion is being served to all creditors.

All hearings before Judge Elizabeth S. Stong will be conducted remotely, by telephone or video as the Court deems appropriate, until further notice. It is not necessary to contact the Courtroom Deputy to request prior authorization to appear remotely, whether via telephone or video. Judge Stong will utilize a new sign-in program, eCourt Appearances, to register to appear

at a hearing. To register, please provide your name, address, e-mail address, telephone number on the hearing date, and if appropriate, the party that you represent. **Please be sure to register at least one business day before your hearing.** You will receive instructions on how to access the remote hearing via e-mail two business days before the hearing. On your hearing date, please connect at least ten minutes before your scheduled hearing time, and keep your audio and video on mute until your case is called.

If you have a CM/ECF account, you may access eCourt Appearances in the “Utilities” menu after logging into CM/ECF. If you do not have a CM/ECF account, you may access eCourt Appearances on the Court’s website at <https://ecf.nyeb.uscourts.gov/cgi-bin/eCourtAppearances.pl>

Additional information about eCourt Appearances, including a tutorial on how to use the program, is available at <https://www.nyeb.uscourts.gov/registering-remote-hearing-appearance-using-ecourt-appearances>.

Dated: Brooklyn, New York
December 11, 2023

By: s:/ David J. Doyaga, Sr.
David J. Doyaga, Sr.
Chapter 7 Trustee
26 Court Street - Ste 1803
Brooklyn, NY 11242
(718) 488-7500

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**TRUSTEE’S MOTION;
(A) REQUESTING THE SANCTION OF THE DEBTOR’S ATTORNEY, VICTOR M. FERARU;
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OF LEGAL FEES COLLECTED**

To: Honorable Elizabeth S. Stong
United States Bankruptcy Judge

David J. Doyaga, Sr., the Chapter 7 Trustee of the estate of the above captioned debtor (the “Debtor”), hereby seeks approval of an Order (A) requesting the sanctions of the Debtor’s attorney, Victor M. Feraru; and (B) to compel the return to Debtor by attorney for Debtor of legal fees collected in preparation of Debtor’s bankruptcy petition and schedules.

BACKGROUND

1. On September 6, 2023 (the “Filing Date”) the Debtor filed a voluntary petition for relief pursuant to Chapter 7 of Title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of New York. This is the Debtor’s second time filing for Chapter 7 Bankruptcy Relief. The first Chapter 7 Bankruptcy case, also filed by Victor M. Feraru (case # 22-40705) was filed on April 4, 2022 and was dismissed on

November 18, 2022. The case was dismissed for failure to file schedules including a creditor matrix.

2. By Notice of Appointment David J. Doyaga, Sr., Esq. was appointed the interim Chapter 7 Trustee (the “Trustee”) of the estate.

3. On September 8, 2023 Trustee referred this case to the UST for a bad faith filing, given the pattern from the first filing of the Bankruptcy case.

4. The UST spoke with Debtor’s counsel and Victor M. Feraru informed the UST he was going to move to dismiss this case.

5. On October 9, 2023 an email (Exhibit “A”) was sent to Victor M. Feraru by the Trustee’s office, stating the Trustee was awaiting the Motion to Dismiss filing, and that the 341 meeting was going to adjourn to December 8, 2023 pending the filing of the motion. Victor M. Feraru responded to the e-mail (Exhibit “A”) saying he will be making the motion to dismiss with prejudice before that time.

6. On November 15, 2023, another email (Exhibit “A”) was sent to Victor M. Feraru by the Trustee’s office, asking when the motion to dismiss will be filed. Victor M. Feraru responded

(Exhibit “A”) on November 20, 2023 stating the motion will be filed by the Friday coming, which would have been November 24, 2023.

7. As of the date of this motion the motion to dismiss still has not been filed, nor have a complete set of schedules been filed.

8. On September 13, 2023 (docket entry #8) the Court issued a notice of proposed dismissal for Debtors failure to pay the balance due on filing fees of \$338.00.

9. On September 27, 2023 the court issued a receipt for the filing fee having been paid.

10. On October 4, 2023 the Court filed a notice of returned payment due to the fact there was either no account/or unable to locate. Debtor was directed to pay the filing fee within 10 days of the date of the notice, failure to do so would result in the referral to the U.S. Attorney for the Eastern District of New York for criminal prosecution. As of the date of this motion a filing fee has not been paid.

11. The Trustee believes this case was filed with no intention of following through with a Chapter 7 Case, this is a clear sign of some type of delay tactic, or filing only for the purpose to receive Bankruptcy relief. This is a clear sign of bad faith filing on behalf of the Debtor and

counsel Victor M. Feraru.

WHEREFORE, for the reasons stated above, the Trustee respectfully requests that the Court grant the relief requested herein, and for such other, further and different relief as this Court deems just and proper.

Dated: Brooklyn, New York
December 11, 2023

By: s:/ David J. Doyaga, Sr.
David J. Doyaga, Sr.
Chapter 7 Trustee
26 Court Street - Ste 1803
Brooklyn, NY 11242
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